IN REPLY REFER TO:
Field Representative

UNITED STATES
DEPARTMENT OF THE INTERIOR
BUREAU OF INDIAN AFFAIRS

West Central Alaska Field Office
3601 C Street, Suite 1100
Anchorage, Alaska 99503-5947
Telephone (907) 271-4088

MEMORANDUM

DATE: July 22, 2002

TO: Alaska Region Tribal Operations Officer

FROM: Field Representative, WCAFO

SUBJECT: Native Village of Napakiak Secretarial Election

Attached is Resolution 02-17 from the Native Village of Napakiak IRA Council requesting a Secretarial Election. Also included is a copy of the proposed Constitution and a floppy disk containing the above material.

I have reviewed the proposed constitution and while there are several changes I would recommend, they all relate to punctuation or grammar. However, I did not note any provision that is contrary to Federal law and I recommend approval.

Attachments

RECEIVED
BUREAU OF INDIAN AFFAIRS

JUL 25 2002

TRIBAL GOVERNMENT SERVICES
JUNEAU REGIONAL OFFICE

NATIVE VILLAGE OF NAPAKIAK
INDIAN REORGANIZATION ACT COUNCIL
P.O. BOX 34069
NAPAKIAK, ALASKA 99634-0069
PH.#907-589-2137, FAX#907-589-2136

Bureau of Indian Affairs
Frontier Building
3601 C Street, Suite 1100
Anchorage, Alaska 99503-5947
Attn: Charlie Bunch

June 28, 2002

Dear Mr. Bunch,

Attached is a duly enacted resolution of the Napakiak IRA Tribal Council, requesting a Secretarial election for the purposes of adopting a new Constitution & By-Laws for the Native Village of Napakiak IRA Tribal Government. Also attached is a copy of the new Constitution & By-Law, which the Tribal Council would like to have voted on by its members.

The Tribal Council requests that the Secretary simply call for an election to ratify or adopt this new Constitution & By-Laws in its entirety, in accordance with 25 U.S.C. section 476(c)(a)(A) and 25 C.F.R. section 81.7, rather than treating this as an election on a package of amendments to the current IRA Constitution, pursuant to 25 U.S.C. section 476(c)(1)(B). This is a thorough enough revision of the Constitution that an item-by-item vote on each change would be difficult, if not impossible, making it far more practical to simply hold a single vote on this new Constitution as a whole. A single vote to ratify or adopt the new Constitution in its entirety is apparently all that is needed; there would be no need for a vote to separately revoke the 1940 Napakiak IRA Constitution, as 25 C.F.R. section 81.1(r) defines "revocation" as a "vote to abandon [an IRA] constitutional form of government, as opposed to [a] vote to amend or revise it." Since Napakiak would not be voting to abandon its IRA form of government, but to revise its IRA Constitution instead, a single vote to ratify or adopt this revised Constitution should be enough.

Thank you for your assistance in calling for and conducting this election, and in providing any other technical or related assistance to the Native Village of Napakiak, IRA Council as we move forward with this important constitutional process.

Sincerely,

Native Village of Napakiak

NATIVE VILLAGE OF NAPAKIAK
INDIAN REORGANIZATION ACT COUNCIL
P.O. BOX 34069
NAPAKIAK, ALASKA 99634-0069
PH.#907-589-2137, FAX#907-589-2136

RESOLUTION 02-17

A RESOLUTION OF THE NATIVE VILLAGE OF NAPAKIAK IRA COUNCIL, REQUESTING THAT THE SECRETARY OF INTERIOR CALL, FOR AND HOLD AN ELECTION ON WHETHER TO RATIFY OR ADOPT A REVISED IRA CONSTITUTION & BY-LAWS FOR THE NATIVE VILLAGE OF NAPAKIAK.

WHEREAS; The governing body of the Native Village of Napakiak the Napakiak IRA Council is a federally- recognized tribal government empowered to act on behalf of its Tribal members in expressing through resolutions and other means the views and needs of the Tribe; and

WHEREAS; Napakiak has an IRA Constitution & By-Laws dating from 1940, and there is a need to revise the Tribe's Constitution & By-Laws to ensure that it meets the aspirations and needs of present day Tribal members, and that it will allow the Tribe to exercise its Tribal authority to the fullest extent possible; and

WHEREAS; The Tribal Council has brought aboard grant-funded workers who have worked on this thorough revision of the Napakiak IRA Constitution & BY-Laws, the Tribe has received both informal review and assistance from BIA and independent legal review and assistance as well, and the Tribal Council has been actively involved in this revision process; and

WHEREAS; The Tribal Council having on this day reviewed the attached proposed Constitution & By-Laws line-by-line, and finding that it would further the needs and aspirations of the Tribe for this Constitution & BY-Laws to be adopted, believes the time has come for the members of the Native Village of Napakiak to vote on whether to ratify or adopt this revised IRA Constitution & By-Laws.

NOW THEREFORE BE IT RESOLVED THAT; pursuant to 25 C.F.R. section 81.5, IRA Council hereby requests that the Secretary of the Interior call for and hold an election of Tribal members pursuant to 25 C.F.R. section 81.7, to decide whether the Tribe should adopt the attached and revised IRA Constitution & By-Laws.

This resolution was duly considered and adopted at a special meeting of the IRA Council, called and convened this 13th day of June 2002, at which a duly constituted quorum was present, by a vote of six (6) in favor, O against, O abstaining, and o absent.

_____ IRA President, _____ IRA Sec/Tres.

CONSTITUTION OF THE NATIVE VILLAGE OF NAPAKIAK

PREAMABLE

We, a group of Alaska Yu'pik Natives, residents of Napakiak, in the State of Alaska, in order to perpetuate our way of life according to our ancient traditions, in the presence of our ancestors and to provide for our prosperity, do ordain and establish this Constitution by the authority of the Indian Reorganization Act of June 18, 1943 (48 State. 984) as amended. When adopted by the membership and approved by the Secretary of the Interior, this Constitutions shall supersede the previously adopted and approved IRA constitutions of July 23, 1946

ARTICLE I NAME

The name of this organization shall be known as the Native Village of Napakiak, Indian Reorganization Act Council, and here after called the Village of Napakiak.

ARTICLE II JURISDICTION

The jurisdiction of the Village of Napakiak shall extend to such Indian Country and subsistence activities as defined by federal law, as may exist in the vicinity of the Native Village of Napakiak, to the fullest extent permitted by federal law and by Napakiak Village Law. The Tribe shall also have jurisdiction to protect tribal members, and children of members regardless of where they reside.

ARTICLE III MEMBERSHIP

SECTION 1. Confirmation of Rolls.

The membership of Native Village of Napakiak is confirmed in accordance with the membership roll prepared by the Tribe and approved by the Tribal council on _____.

SECTION 2 Present Memberships.

Membership in the Tribe on and after the date of the adoption of this Article shall consist of all living persons whose names appear on the Village of Napakiak membership roll dated together with all children of such members, including adopted children of Alaska Native Blood, born too late to be included on the roll and prior to the effective date of this section. The Tribal Council shall make any necessary corrections in this Village of Napakiak Membership roll so that no one eligible for Membership under prior constitutional provisions shall be excluded there from.

SECTION 3. Future Membership.

Any Person who shall apply, or have application made on his/her behalf **AND** who can establish eligibility under one of more of the following provisions shall be enrolled:

(a) All children of Alaska Native Blood who are residents of the Village of Napakiak or the neighborhood thereof and who is a descendant of an enrolled member shall be members of the Village of Napakiak.
(b) Any Alaska Native who becomes a permanent resident of the Village of Napakiak of the neighborhood thereof may become a member of the Village of Napakiak.
(c) Any person who has lost membership may be enrolled upon such terms and conditions as may be established by custom or pursuant to a membership and enrollment ordinance adopted in accordance with the provisions of this Article.

SECTION 4. Adoption.

The Tribal Council shall have the power to enact and promulgate ordinances, subject to review and ratification by the Village membership, governing the adoption of persons as members of the Village of Napakiak.

SECTION 5. Loss of Membership.

Any member may willingly give up membership at any time upon written notice to the Tribal Council, in which case he/she shall no longer share in the activities and benefits of this Tribe, but he may be reinstated as a member upon written application filed with the Tribal Council in accordance with the provisions established in Section 3 of Article III. However, when a member voluntarily gives up his or her membership that member shall remain an inactive tribal member, and that member's children shall be eligible for membership in the Tribe.

SECTION 6. Rights of Members are Prospective.

No person shall be entitled to receive any payments or share in any other tribal assets, which were distributed prior to the date of his/her actual enrollment.

SECTION 7. Membership Rules.

The Village of Napakiak Tribal Council shall have the authority to adopt ordinances to extend the privilege of membership for community purposes to American Indian persons not otherwise eligible under Section 3 of this Article. Such persons shall not be entitled to hold elective office or vote in village election pursuant to this constitution. The Tribal Council shall have the authority to prescribe rules and the procedures to be followed in compiling and maintaining a membership roll in accordance with the provisions of this Article.

SECTION 8. Definition of Residence.

Any person shall be considered a resident of the village or neighborhood or vicinity who maintains a home within the Village of Napakiak, or in any area on or in the vicinity of the Native Village of Napakiak, which may be reserved or otherwise acquired for the use of the village. Temporary absences shall not constitute loss of residence.

ARTICLE IV CIVIL RIGHTS

SECTION 1. Rights.

SECTION 1. Powers.

The Tribal Council shall have the following powers subject to any limitations imposed by applicable law and subject to all express restrictions upon such powers contained in this Constitution:

(a) To consult, negotiate, contract, or conclude agreements with Federal, State, and local governments on activities, which may affect the Village of Napakiak.
(b) To employ legal counsel, the choice of counsel and fixing of fees to be subject to the approval of the Secretary of the Interior or his authorized representative so long as such approval is required by federal law.
(c) To receive advice from and make recommendations to the Secretary of the Interior with regard to all appropriation estimates for all projects in Napakiak which are for the benefit of members of the village of Napakiak prior to the submission of such estimates to the Office of Management and Budget of Congress.
(d) To acquire property and to accept gifts.
(e) To charter community enterprises, corporations, and associations.
(f) To make rules and regulations governing future tribal membership, loss of membership, and adoption of members, consistent with Article III Membership.
(g) To administer village assets and manage all economic affairs and enterprises of the community.
(h) To promote the peace, safety, health, and general welfare of the members of the community.
(i) To enact ordinances and regulations consistent with the Constitution for the conduct and administration of all tribal elections, the appointment of an election board, and the regulations of its duties.
(j) To levy and collect taxes, fee, and assessments for community purpose upon members of the community.
(k) To promulgate and enforce ordinance governing the conduct of all persons within the jurisdiction of the Village of Napakiak, and providing for the maintenance of law and order and the administration of justice by establishing a court system and defining its duties and powers.
(l) To regular child custody and adoptions pursuant to the Indian Child Welfare Act or other applicable laws.
(m) To encourage and foster the arts, crafts, traditions, language and culture of the community.
(n) To manage, lease, exchange, acquire or otherwise deal with tribal lands and to prevent encumbrance, alienation or loss of tribal property without the consent of the Tribal Council.

SECTION2. Omitted Powers.

Any rights and powers heretofore vested in the Village of Napakiak, but not expressly referred to in this Constitution shall not be lost by the reason of their omission, but may be exercised by the Membership through the adoption of appropriate amendments to this Constitution.

SECTION 3. Reserved Powers.

The Tribal Council may exercise such further powers as may in the future be delegated by the Tribal Members.

ARTICLE VIII ELECTIONS

SECTION 1. Voters Qualifications.

Except as other wise provided in this constitution any members of the Village of Napakiak eighteen (18) years of age or older shall have the right to vote in all village elections provided that he or she has been a resident of the Village of Napakiak for at least one (1) year immediately preceding the election.

SECTION 2. Voter Qualifications.

Any enrolled member of the Village of Napakiak who is at least (18) years of age and who has resided in the Village of Napakiak for at least one (1) year immediately preceding the election shall be eligible as a candidate for the Tribal Council.

SECTION 3. Candidates.

Candidates for Tribal Council seats shall be selected in accordance with the Tribe's Election Ordinance.

SECTION 4. General Election.

The general election of Tribal Council members shall coincide with the annual general membership meeting. Notice of the election shall be given at least fifteen (15) days in advance by public posting in the village.

SECTION 5. Special Elections.

The Tribal Council may call special elections for any proper purpose provided that at least five (5) days advance notice of such special election is published by posting in a public place.

SECTION 6. Election Ordinance.

As soon as practicable after the effective date of this constitution the Tribal Council shall adopt an ordinance establishing rules and procedures to be followed in conducting each of the various type of elections specified in this constitution. The ordinance shall include provisions for conducting all village elections by secret balloting, qualifications of candidates, maintenance of a current list of eligible voters, the setting of election disputes and other matters necessary and appropriate to the conduct of elections.

SECTION 7. Election Committee.

Prior to any tribal election the Tribal Council shall appoint responsible persons to supervise, administer and conduct the election. The Tribal Council shall establish by appointment, a new election committee prior to each election. Members of the election committee shall not

be members of the Tribal Council or candidates for the Tribal Council or the Tribal Court Judge.

ARTICLE IX POPULAR PARTICIPATION IN GOVERNMENT

SECTION 1. Initiative.

The eligible voters of the Village of Napakiak shall have the right to propose legislation or other community action and vote by secret ballot to determine whether the legislation or other community action shall be adopted or rejected. Upon receipt of a petition signed by at least thirty percent (30%) of the eligible voting members, the Tribal Council shall call an election to be conducted no later than thirty, (30) days after receipt of the petition. An affirmative vote of at least thirty percent (30%) of the eligible voters shall be required to determine the issues or questions submitted to the voters.

SECTION 2. Referendum.

The Tribal Council, by an affirmative vote of the quorum of the Tribal Council, may call an election for the purpose of deciding any issue or question, which is within the authority of the Tribal Council. At least (30%) of the eligible voters must vote for the election to be binding.

SECTION 3. Voter Decision Binding.

The decision of the majority of voters in both initiative and referendum elections shall be binding on the Tribal Council and the membership, and shall remain in full force until amended or rescinded by the voters or expires by its own term.

ARTICLE X DUTIES OF OFFICERS

SECTION 1. President.

The President presides at all meeting of the community and of the Tribal Council and shall execute on behalf of the community all contracts, leases, or other documents approved by the Tribal Council. He shall vote only in case of tie, except on the matter of the President's removal. He shall have the general supervision of all other officers, employees, and committees of the community and see that their duties are properly performed. When the Tribal Council is not in session, he shall be the official representative of the community.

SECTION2. Vice-President.

The Vice-President shall assist the President when called upon to do so. In the absence of the President, he shall preside and he shall have the rights, privileges, duties and responsibilities of the President.

SECTION 3. Secretary.

The Secretary of the Tribal Council shall act as a chairman in the event the President and the Vice-President are absent from the village. He shall record all rules and regulations in appropriate books for the information and guidance of the community members. It shall be